

***\*\*If this is an agreement between the City and an individual or business entity providing DESIGN SERVICES, use Form MVE 00-05.\*\****

**\*\*OPERATOR\*\*** Do a global search and replace the word \*NAME\* with CONTRACTOR, CONSULTANT, ARCHITECT, DESIGN ENGINEER, etc. (author will specify, use ALL CAPS).\*\*\*\*\*

**AGREEMENT BETWEEN THE CITY OF MOUNTAIN VIEW  
AND \_\_\_\_1\_\_\_\_ FOR  
\_\_\_\_2\_\_\_\_ SERVICES**

This contract is dated for identification this \_\_\_\_3\_\_\_\_ day of \_\_\_\_4\_\_\_\_, \_\_\_\_5\_\_\_\_, and is made by and between the CITY OF MOUNTAIN VIEW, a California Charter City and municipal corporation, whose address is P.O. Box 7540, Mountain View, California, 94039 (hereinafter "CITY"), and \_\_\_\_\_6ALLCAPS\_\_\_\_\_, whose address is \_\_\_\_7\_\_\_\_ (hereinafter "\*NAME\*").

**RECITALS**

A. CITY desires to retain the services of \*NAME\* to provide \_\_\_\_8\_\_\_\_, [OPTIONAL VARIABLE TO ADD CIP PROJECT NUMBER] Project \_\_\_\_9\_\_\_\_.

B. \*NAME\* is a qualified professional capable of providing the certain professional services which CITY seeks.

NOW, THEREFORE, in consideration of the recitals and mutual promises contained herein, CITY does hereby engage \*NAME\*, and \*NAME\* agrees, to perform the services set forth herein in accordance with the following terms and conditions:

1. **Description of Services.**\* \*NAME\* shall provide the following services:  
\_\_\_\_10\_\_\_\_.

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\* ==FOOTNOTE TO REMIND DICTATOR==BOTH ASTERISKS AND FOOTNOTE TO BE DELETED IN ACTUAL DOCUMENT==If \*NAME\* has submitted a proposal and/or scope of work with cost schedule and rates, it can be referenced here as follows. "\*NAME\*'s proposal, dated \_\_\_\_\_, is attached hereto and incorporated herein as Exhibit "A."

2. **Schedule and Term.** The schedule for performing said services is as follows:

\*NAME\* shall commence work under this contract on \_\_\_11\_\_\_ and shall complete all work under this contract no later than \_\_\_12\_\_\_.

*\*\*OPTION: AUTHOR MAY INCLUDE STATEMENT REGARDING SPECIFIC METHOD OF PAYMENT SUCH AS AN HOURLY RATE, DAILY, ETC.\*\**

3. **Compensation.**\* The \_\_\_13\_\_\_ hourly or \_\_\_14\_\_\_ daily rate for services under this Contract shall be \_\_\_15\_\_\_ rate\_\_\_ Dollars (\$\_\_\_16\_\_\_), and total compensation to \*NAME\* for providing the services set forth herein shall not exceed (including reimbursed expenses) \_\_\_17\_\_\_ Dollars (\$\_\_\_18\_\_\_).

4. **Payment Schedule.** CITY shall make periodic payments within thirty (30) days of receiving and approving a billing statement in proportion to the satisfactory completion of \*NAME\*'s services.

5. **Reliance Upon Professional Skill.** It is mutually agreed by the parties that CITY is relying upon the professional skill of \*NAME\*, and \*NAME\* represents to CITY that its work shall conform to generally recognized professional standards in the industry. Acceptance of \*NAME\*'s work by CITY does not operate as a release of \*NAME\*'s said representation.

6. **Independent Contractor.** It is agreed that \*NAME\* is an independent contractor, and all persons working for or under the direction of \*NAME\* are \*NAME\*'s agents, servants and employees, and said persons shall not be deemed agents, servants or employees of CITY.

**(OPTIONAL PARAGRAPH)**

***\*\*\*THE FOLLOWING PARAGRAPH, "OWNERSHIP OF DATA AND DOCUMENTS" SHOULD BE INSERTED IN ANY PROFESSIONAL SERVICES AGREEMENT WHERE THE CONSULTANT IS ASKED TO PREPARE DOCUMENTS AS A PART OF THE SERVICES RENDERED. EXAMPLES INCLUDE ACCOUNTING PROFESSIONALS AND ARCHITECTS OR OTHER CONSULTANTS WHO PROVIDE DESIGN DOCUMENTS, DRAWINGS AND/OR SPECIFICATIONS. THIS PROVISION IS NOT APPLICABLE TO CONSULTANTS/VENDORS WHO TEACH RECREATIONAL CLASSES OR MEDICAL-CARE PROVIDERS. PLEASE CONTACT THE CITY ATTORNEY'S OFFICE IF YOU HAVE ANY QUESTIONS.\*\*\****

7. **Ownership of Data and Documents.** \*NAME\* agrees that all records, specifications, data, maps, designs, graphics, writings, recordings and other tangible materials regardless of form or format, including, without limitation, electronically transmitted documents and ACAD files, and other collateral materials collected, compiled, drafted, prepared, produced and/or generated in the performance of this Agreement shall be the property of CITY. \*NAME\* shall regularly provide such

documents to CITY upon CITY's request. In the event that this Agreement is terminated prior to completion of the scope of work, \*NAME\* shall provide all such data and documents to CITY forthwith.

*(END OF OPTIONAL PARAGRAPH)*

8. **Insurance.**

a. **Commercial General Liability/ Automobile Liability Insurance:**

\*NAME\* shall obtain and maintain Commercial General Liability insurance and Automobile Liability insurance in the amount of One Million Dollars (\$1,000,000) per occurrence. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this contract or the general aggregate limit shall be twice the required occurrence limit. \*NAME\*'s insurance coverage shall be written on an occurrence basis.

b. **Workers' Compensation Insurance:**

***\*\*WORKERS' COMPENSATION INSURANCE: IF THE CONTRACTING PARTY IS A COMPANY WITH EMPLOYEES, USE OPTION NO. 1 FOR WORKERS' COMPENSATION LANGUAGE. IF THE CONTRACTING PARTY IS AN INDIVIDUAL OR INDIVIDUALS WITH NO EMPLOYEES, USE OPTION NO. 2 FOR WORKERS' COMPENSATION LANGUAGE.\*\****

*(OPTION NO. 1)*

\*NAME\* shall obtain and maintain statutory Workers' Compensation insurance and Employer's Liability insurance in the amount of One Million Dollars (\$1,000,000) per accident.

*(OPTION NO. 2)*

\*NAME\* is an individual or a company that has entered, or will be entering, into an agreement with CITY to provide goods or services.

\*NAME\* is familiar with the Workers' Compensation laws of California (generally contained in Section 3700 of the Labor Code), including those provisions which provide for specific exemptions from the requirement that all employers must carry Workers' Compensation insurance, and \*NAME\* maintains they are exempted under the law from the requirement to maintain Workers' Compensation insurance coverage.

In addition, during the term of any work for CITY under said agreement: (1) \*NAME\* will not employ any person in any manner so as to become subject to the Workers' Compensation laws of California, or (2) should \*NAME\* become

subject to the Workers' Compensation provisions of Section 3700 of the Labor Code for any reason, \*NAME\* shall forthwith comply with those provisions and send evidence of financial compliance to CITY.

(END OF OPTION NO. 2)

c. Professional Liability Insurance:  
**\*\*OPTIONAL PARAGRAPH – AUTHOR WILL INSTRUCT DOCUMENT PROCESSING WHETHER TO INCLUDE. PROFESSIONAL LIABILITY INSURANCE IS REQUIRED FOR ALL ARCHITECTS, ENGINEER, EXPERTS AND CONSULTANTS. IF YOU FEEL THIS INSURANCE MAY NOT APPLY TO YOUR CONTRACT, PLEASE CONTACT EITHER RISK MANAGEMENT OR THE CITY ATTORNEY'S OFFICE FOR WAIVER OF THIS REQUIREMENT.\*\***

\*NAME\* shall obtain and maintain Professional Liability insurance in the amount of One Million Dollars (\$1,000,000) per claim. Professional liability insurance must be maintained, and evidence of insurance shall be provided to CITY for at least three (3) years after completion of the contract of work.

=====END OF OPTIONAL PARAGRAPH=====

d. Acceptability of Insurers: Insurance is to be placed with insurers with a current *Best Rating* of A:VII unless otherwise acceptable to CITY.

e. Verification of Coverage: Insurance, deductibles or self-insurance retentions shall be subject to CITY's approval. Original Certificates of Insurance with endorsements shall be received and approved by CITY before work commences, and insurance must be in effect for the duration of the contract. The absence of insurance or a reduction of stated limits shall cause all work on the project to cease. Any delays shall not increase costs to CITY or increase the duration of the project.

f. Other Insurance Provisions:

(1) The City of Mountain View, its officers, officials, employees and volunteers are to be covered as additional insured by Endorsement CG 20 10 11 85 or other endorsement approved by CITY's Risk Manager for Commercial General and Automobile Liability coverage.

(2) For any claims related to this project, \*NAME\*'s insurance coverage shall be primary and any insurance or self-insurance maintained by CITY, its officers, officials, employees and volunteers shall not contribute to it.

(3) Each insurance policy required shall be endorsed that a thirty (30) day notice be given to CITY in the event of cancellation or modification to the stipulated insurance coverage.

(4) In the event \*NAME\* employs subcontractors as part of the work covered by this Agreement, it shall be the responsibility of \*NAME\* to ensure that all subcontractors comply with the same insurance requirements that are stated in this Agreement.

(5) Approval of the insurance by CITY or acceptance of the Certificate of Insurance by CITY shall not relieve or decrease the extent to which \*NAME\* may be held responsible for payment of damages resulting from \*NAME\*'s services or operation pursuant to this Agreement, nor shall it be deemed a waiver of CITY's rights to insurance coverage hereunder.

(6) If, for any reason, \*NAME\* fails to maintain insurance coverage that is required pursuant to this contract, the same shall be deemed a material breach of contract. CITY, at its sole option, may terminate this contract and obtain damages from \*NAME\* resulting from said breach. Alternately, CITY may purchase such required insurance coverage, and without further notice to \*NAME\*, CITY may deduct from sums due to \*NAME\* any premium costs advanced by CITY for such insurance.

***\*\*HOLD HARMLESS: IF OPTIONAL PARAGRAPH (c), PROFESSIONAL LIABILITY INSURANCE, HAS BEEN REQUIRED IN THE PRECEDING INSURANCE SECTION, USE OPTION NO. 2 FOR THE HOLD HARMLESS LANGUAGE. IF NOT REQUIRED, USE OPTION NO. 1.\*\****

*(OPTION NO. 1)*

9. **Hold Harmless.** \*NAME\* shall defend, indemnify and hold CITY, its officers, employees and agents harmless from any liability for damage or claims of same, including but not limited to personal injury, property damage and death, which may arise from \*NAME\* or \*NAME\*'s contractors, subcontractors, agents or employees' operations under this Agreement. CITY shall cooperate reasonably in the defense of any action, and \*NAME\* shall employ competent counsel, reasonably acceptable to the City Attorney.

*(OPTION NO. 2)*

9. **Hold Harmless.** \*NAME\* hereby agrees to and shall indemnify, defend and hold CITY, its officers, agents and employees harmless from any liability for damage or claims for damage for personal injury, including death and/or property damage, caused by negligent acts, errors or omissions in performance of professional services under this Agreement by \*NAME\* or \*NAME\*'s contractors, subcontractors, agents or employees' operations under this Agreement. CITY shall cooperate reasonably in the defense of any action, and \*NAME\* shall employ competent counsel, reasonably acceptable to the City Attorney.

10. **Applicable Laws and Attorneys' Fees.** This Agreement shall be construed and enforced pursuant to the laws of the State of California. Should any legal action be brought by a party for breach of this Agreement or to enforce any provision herein, the prevailing party of such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the court. Reasonable attorneys' fees of the City Attorney's Office, if private counsel is not used, shall be based on comparable fees of private attorneys practicing in Santa Clara County.

19 IF AGREEMENT EQUALS OR EXCEEDS \$10,000, LEAVE IN THE FOLLOWING EQUAL EMPLOYMENT OPPORTUNITY PARAGRAPH.

11. **Nondiscrimination.** \*NAME\* shall afford equal employment opportunities for all persons without discrimination because of race, color, religion, sex, sexual orientation, political affiliation, national origin, ancestry, age, marital status, or physical or mental disability.

**\*\*END OF VARIABLE 19\*\***

12. **Amendment.** This Agreement may be amended in writing and signed by both parties.

13. **Termination.** CITY may terminate this Agreement at any time by providing ten (10) days advance written notice to \*NAME\*. Should CITY terminate pursuant to said notice, CITY shall pay \*NAME\* for \*NAME\*'s services rendered to the date of cancellation based on percentage of completion of scope of basic services, including actual reimbursable expenses. In no event shall said fees exceed the maximum compensation established in this Agreement.

14. **Attachments or Exhibits.** Except as expressly referenced herein, no portion of any terms or conditions included in any attachments or exhibits shall be a part of this Agreement, and they shall have no force or effect. If the attachments or exhibits to this Agreement, if any, are inconsistent with this Agreement, this Agreement shall control.

15. **Entire Agreement.** This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or understandings (whether oral or written) between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein.

16. **Public Records.** The parties recognize and acknowledge that CITY is subject to the California Public Records Act, California Government Code Section 6250 and following. Public records are subject to disclosure.

17. **Notices.** Any notice required to be given to \*NAME\* shall be deemed to be duly and properly given if mailed to \*NAME\*, postage prepaid, addressed to:

\_\_\_20\_\_\_

or personally delivered to \*NAME\* at such address or at such other addresses as \*NAME\* may designate in writing to CITY.

Any notice required to be given CITY shall be deemed to be duly and properly given if mailed to CITY, postage prepaid, addressed to:

\_\_\_21\_\_\_ Director  
City of Mountain View  
500 Castro Street  
P.O. Box 7540  
Mountain View, CA 94039-7540

or personally delivered to CITY at such address or at such other addresses as CITY may designate in writing to \*NAME\*.

IN WITNESS WHEREOF, this Agreement is executed by CITY and by \*NAME\*.

APPROVED AS TO CONTENT:

"CITY":  
CITY OF MOUNTAIN VIEW,  
a California Charter City and municipal  
corporation

\_\_\_\_\_  
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FINANCIAL APPROVAL:

By: \_\_\_\_\_  
23 Department Head/  
City Manager

\_\_\_\_\_  
Finance and Administrative  
Services Director

By: \_\_\_\_\_  
24 City Clerk

**\*\*\*NOTE TO DICTATOR: CITY CLERK  
SIGNATURE REQUIRED IF APPROVED  
BY CITY COUNCIL – ADVISE WHETHER  
TO LEAVE IN OR DELETE\*\*\***

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

"\*NAME\*":  
25

By: \_\_\_\_\_

\_\_\_\_\_  
Taxpayer I.D. Number

MVF 00-03 (Rev. 12/11/09)